

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-2010-PST-E TCEQ ID: RN102411766 CASE NO.: 35147**  
**RESPONDENT NAME: ADDISON ENTERPRISES, INC. DBA ATWELL 66**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input checked="" type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 5757 Bellaire Boulevard, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired March 23, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="margin-left: 20px;"><b>TCEQ Attorney:</b> Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;"><b>TCEQ Enforcement Coordinator:</b> Mr. Tom Greimel, Waste Enforcement Section, MC 128, (512) 239-5690</p> <p style="margin-left: 20px;"><b>TCEQ Regional Contact:</b> Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623</p> <p style="margin-left: 20px;"><b>Respondent:</b> Mr. Khalil R. Khalil, President, Addison Enterprises, Inc., 4100 Spring Valley, Suite 515, Farmers Branch, Texas 75244</p> <p style="margin-left: 20px;"><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 25, 2007</p> <p><b>Date of NOE Relating to this Case:</b> October 29, 2007</p> <p><b>Background Facts:</b> The EDPRP was filed March 6, 2008. The EDFARP was filed September 24, 2008. The Respondent signed an Agreed Order on January 13, 2009.</p> <p><b>Current Compliance Status:</b> No outstanding Technical Requirements.</p> <p><b>PST:</b> Failed to upgrade the Stage II equipment to Onboard Refueling Vapor Recovery ("ORVR") compatible systems; failed to maintain the Stage II Vapor Recovery system in proper operation condition, as specified by the manufacturer and/or any applicable California Air Resource Board Executive Order, and free of defects that would impair the effectiveness of the system [TEX. HEALTH &amp; SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE §§ 115.242(1)(C) and 115.242(3) and (3)(A)].</p>	<p><b>Total Assessed:</b> \$1,070</p> <p><b>Total Deferred:</b> \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$1,070</p> <p>The Respondent paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification:</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures at the Station in response to this enforcement action:</p> <ol style="list-style-type: none"><li>1. Repaired the break in the vapor recovery line; and</li><li>2. Passed Stage II Vapor Recovery system annual testing on April 9, 2008.</li></ol>



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

TCEQ

<b>DATES</b>	<b>Assigned</b>	3-Dec-2007	<b>Screening</b>	12-Dec-2007	<b>EPA Due</b>	
	<b>PCW</b>	19-Dec-2007				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Addison Enterprises Inc. dba Atwell 66
<b>Reg. Ent. Ref. No.</b>	RN102411766
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

Enf./Case ID No.		35147		No. of Violations	1
Docket No.		2007-2010-PST-E		Order Type	1660
Media Program(s)		Petroleum Storage Tank		Enf. Coordinator	Shontay Wilcher
Multi-Media				EC's Team	Enforcement Team 6
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,000
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	7% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$70
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<b>Notes</b>	Enhancement for one Notice of Violation with same or similar violations and one Notice of Violation without same or similar violations.
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<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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Before NOV	NOV to EDPRP/Settlement Offer
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Extraordinary	
Ordinary	
N/A	X (mark with x)

<b>Notes</b>	The Respondent does not meet the good faith criteria.
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<b>Total EB Amounts</b>	\$60	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	\$0
<b>Approx. Cost of Compliance</b>	\$1,200	*Capped at the Total EB \$ Amount		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,070
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## OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$1,070
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## STATUTORY LIMIT ADJUSTMENT

<b>Final Assessed Penalty</b>	\$1,070
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## DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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## PAYABLE PENALTY

\$1,070
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Screening Date 12-Dec-2007

Docket No. 2007-2010-PST-E

PCW

Respondent Addison Enterprises Inc. dba Atwell 66

Policy Revision 2 (September 2002)

Case ID No. 35147

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102411766

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one Notice of Violation with same or similar violations and one Notice of Violation without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 7%

<b>Screening Date</b> 12-Dec-2007		<b>Docket No.</b> 2007-2010-PST-E		<b>PCW</b>	
<b>Respondent</b> Addison Enterprises Inc. dba Atwell 66		<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 35147		<i>PCW Revision November 6, 2007</i>			
<b>Reg. Ent. Reference No.</b> RN102411766					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Shontay Wilcher					
<b>Violation Number</b>	<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>				
<b>Rule Cite(s)</b>	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 115.242(1)(C), 115.242(3) and (3)(A), and Tex. Health &amp; Safety Code § 382.085(b)</div>				
<b>Violation Description</b>	<div style="border: 1px solid black; padding: 5px;">Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. Also, failed to maintain the Stage II vapor recovery system in proper operation condition, as specified by the manufacturer and/or any applicable California Air Resource Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, a break in the vapor recovery line was discovered during the annual Stage II testing.</div>				
<b>Base Penalty</b>					<div style="border: 1px solid black; padding: 2px;">\$10,000</div>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	Potential	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; padding: 2px;">10%</div>
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; padding: 2px;">0%</div>
<b>Matrix Notes</b>	<div style="border: 1px solid black; padding: 5px;">Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>				
<b>Adjustment</b>					<div style="border: 1px solid black; padding: 2px;">\$9,000</div>
					<div style="border: 1px solid black; padding: 2px;">\$1,000</div>
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<div style="border: 1px solid black; padding: 2px;">1</div>			
		<div style="border: 1px solid black; padding: 2px;">79</div> <b>Number of violation days</b>			
mark only one with an x	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
<b>Violation Base Penalty</b>					<div style="border: 1px solid black; padding: 2px;">\$1,000</div>
One quarterly event is recommended from the September 25, 2007 investigation date to the December 12, 2007 screening date.					
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>			<b>Violation Final Penalty Total</b>		
<div style="border: 1px solid black; padding: 2px;">\$60</div>			<div style="border: 1px solid black; padding: 2px;">\$1,070</div>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<div style="border: 1px solid black; padding: 2px;">\$1,070</div>

**Economic Benefit Worksheet**

**Respondent** Addison Enterprises Inc. dba Atwell 66  
**Case ID No.** 35147  
**Reg. Ent. Reference No.** RN102411766  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,200	25-Sep-2007	25-Sep-2008	1.0	\$60	n/a	\$60

Notes for DELAYED costs

Approximate cost to upgrade the Stage II equipment to ORVR compatible systems and properly repair the vapor recovery line. The Date Required is the date of the investigation. The Final Date is the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,200

TOTAL

\$60

# Compliance History

Customer/Respondent/Owner-Operator:	CN600888275	Addison Enterprises, Inc.	Classification: AVERAGE	Rating: 21.81
Regulated Entity:	RN102411766	ATWELL 66	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	45315	
Location:	5757 BELLAIRE BLVD, HOUSTON, TX, 77081	Rating Date: September 01 07	Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	December 14, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 14, 2002 to December 14, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Shontay Wilcher Phone: (512) 239-2136

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.  
N/A

B. Any criminal convictions of the state of Texas and the federal government.  
N/A

C. Chronic excessive emissions events.  
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/16/2005	(373780)
2	08/26/2005	(381280)
3	04/22/2007	(556986)
4	10/29/2007	(595785)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/26/2005 (381280)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.50(a)(1)(B)

Description: Failure to have personnel with the necessary experience to operate the ATG unit as required.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.50(d)(4)(A)(ii)(II)

Description: Failure to run ATG in test mode.

Date: 04/22/2007 (556986)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)

Description: 30 TAC Chapter 115.242(1)(C)- all Stage II Vapor Recovery systems to be compatible with Onboard Refueling Vapor Recovery (ORVR) systems on motor vehicles. Existing Stage II systems must be in compliance with this requirement.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)

Description: 30 Tex. Admin. Code Section 115.242 (3) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ADDISON ENTERPRISES, INC.  
DBA ATWELL 66  
RN102411766

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-2010-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Addison Enterprises, Inc. dba Atwell 66 ("Addison Enterprises") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Addison Enterprises, appear before the Commission and together stipulate that:

1. Addison Enterprises owns and operates a convenience store with retail sales of gasoline located at 5757 Bellaire Boulevard, Houston, Harris County, Texas (the "Station").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.
3. The Commission and Addison Enterprises agree that the Commission has jurisdiction to enter this Agreed Order, and that Addison Enterprises is subject to the Commission's jurisdiction.
4. Addison Enterprises received notice of the violations alleged in Section II ("Allegations") on or about November 3, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Addison Enterprises of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of one thousand seventy dollars (\$1,070.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Addison Enterprises paid one thousand seventy dollars (\$1,070.00) of the administrative penalty.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Addison Enterprises agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Addison Enterprises implemented the following corrective measures at the Station in response to this enforcement action:
  - a. Repaired the break in the vapor recovery line; and
  - b. Passed Stage II vapor recovery system annual testing on April 9, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Addison Enterprises has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

During an investigation conducted on September 25, 2007, a University of Texas – Arlington Stage II PST Office investigator documented that Addison Enterprises violated TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE §§ 115.242(1)(C) and 115.242(3) and (3)(A) by failing to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. Also, Addison Enterprises failed to maintain the Stage II vapor recovery system in proper operation condition, as specified by the manufacturer and/or any applicable California Air Resource Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, a break in the vapor recovery line was discovered during the annual Stage II testing.

### III. DENIALS

Addison Enterprises generally denies each allegation in Section II ("Allegations").

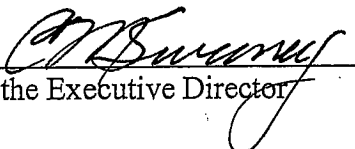
### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Addison Enterprises pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Addison Enterprises' compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Addison Enterprises, Inc. dba Atwell 66, Docket No. 2007-2010-PST-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Addison Enterprises.
3. This Agreed Order, issued by the Commission, shall not be admissible against Addison Enterprises in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Addison Enterprises, or three days after the date on which the Commission mails notice of the Order to Addison Enterprises, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

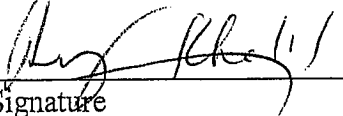
March 4, 2009  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or Addison Enterprises's failure to timely pay the penalty amount, may result in:

- A negative impact on Addison Enterprises's compliance history;
- Greater scrutiny of any permit applications submitted by Addison Enterprises;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Addison Enterprises;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Addison Enterprises; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

1/13/09  
\_\_\_\_\_  
Date

Ray Khalil  
\_\_\_\_\_  
Name (Printed or typed)

Pres  
\_\_\_\_\_  
Title

Authorized representative of  
Addison Enterprises, Inc. dba Atwell 66